

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JASON RUSSELL PELTON,

Defendant-Appellant.

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UNPUBLISHED

October 23, 2003

No. 240740

St. Clair Circuit Court

LC No. 01-001608-FH

Before: Bandstra, P.J., and Hoekstra and Borrello, JJ.

PER CURIAM.

Defendant appeals as of right his conviction of involuntary manslaughter, MCL 750.321, entered after a jury trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

During the afternoon on May 17, 2001 decedent, who was intoxicated, lost control of his bicycle and struck his nose on the handlebars. Later that day defendant and decedent had an argument and defendant punched decedent in the face. Decedent fell backwards and hit his head on the pavement. Two witnesses testified that decedent made no attempt to break his fall. During his walk home decedent tripped on the pavement and fell to the ground. He broke his fall with his hip, and immediately got back on his feet. On May 18, 2001 decedent's girlfriend found him lying on the floor by the couch in his home. Medical personnel transported decedent to the hospital. On May 20, 2001, decedent was declared brain dead and removed from life support.

The neurosurgeon who treated decedent testified that decedent acquired an injury to the under side of the frontal lobe of the brain from a blow to the back of his head. He concluded that decedent must have struck the back of his head in order to sustain the injuries that he did. Surgery to remove the blood clot in decedent's brain would have necessitated removing a portion of decedent's brain. Decedent would have had less than a fifty percent chance of surviving the operation, and likely would have been permanently unable to move or speak even if he survived. Decedent's family decided to forego surgery. Decedent was declared brain dead and removed from life support.

The forensic pathologist who conducted the autopsy concluded that the cause of decedent's death was blunt force head trauma. He acknowledged that a blow to the nose could cause a subdural hemorrhage if the blow was extremely hard, but stated that the single pattern of

injury to decedent's brain meant that the injury was caused by one incident. The pattern was consistent with an incident in which decedent sustained a blow to the back of the head.

In reviewing a sufficiency of the evidence question, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. We do not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, amended 441 Mich 1201 (1992); *People v Milstead*, 250 Mich App 391, 404; 648 NW2d 648 (2002). A trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

To convict a defendant of involuntary manslaughter, the prosecution must prove that: (1) the defendant caused the death of another; (2) in doing the act that caused the death the defendant acted in a grossly negligent manner or intended to injure another; and (3) the defendant caused the death without lawful excuse or justification. MCL 750.321; *In re Gillis*, 203 Mich App 320, 321; 512 NW2d 79 (1994). The death must be the "natural and probable consequence of the unlawful act and not the result of an independent intervening cause" with which the accused was not connected and could not foresee. *People v Clark*, 171 Mich App 656, 659; 431 NW2d 88 (1988).

The undisputed evidence that defendant hit decedent in the face and that decedent fell over and struck the back of his head on the pavement supported a finding that defendant committed a battery on decedent. Decedent made no attempt to break his fall. Decedent fell on three other occasions on May 17 and 18, 2001; however, no evidence showed that he struck the back of his head on any of those occasions. The jury was entitled to conclude from the physicians' testimony that the blow to the back of decedent's head resulted in decedent's death. *People v Creith*, 151 Mich App 217, 227-228; 390 NW2d 234 (1986). The evidence supported a conclusion that decedent's death was the natural and probable consequence of defendant's unlawful action. *Clark, supra*. Decedent's family's decision to terminate life support did not result in decedent's death. The discontinuance of life support measures merely allows an injury to take its natural course. *People v Bowles*, 461 Mich 555, 559-560; 607 NW2d 715 (2000). The evidence, viewed in a light most favorable to the prosecution, supported defendant's conviction of involuntary manslaughter. MCL 750.321; *Wolfe, supra*.

Affirmed.

/s/ Richard A. Bandstra

/s/ Joel P. Hoekstra

/s/ Stephen L. Borrello